

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Adoption of its 2003 Energy Resource Recovery Account (ERRA) Revenue Requirement Estimate, its ERRA Trigger Mechanism Proposal, and its ERRA Trigger Amount. (U 39 E).

Application 03-02-002
(Filed February 3, 2003)

**SCOPING MEMO AND RULING OF THE
ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE**

Summary

On February 3, 2003, Pacific Gas and Electric Company (PG&E) filed its application for the adoption of its 2003 Energy Resource Recovery Account (ERRA) revenue requirement estimate, and its ERRA trigger amount. A prehearing conference (PHC) was held on May 19, 2003 to determine the scope of issues in this proceeding, and to determine if any evidentiary hearings should be held. The only issue that was identified as possibly requiring a hearing was the competition transition charge (CTC) element of the direct access cost responsibility surcharge.

Following the PHC, two events occurred which affect this proceeding. First, PG&E and the Office of Ratepayer Advocates (ORA) agreed to a stipulation. Among other issues, the stipulation proposes that PG&E remove the confidential hedging amounts identified by ORA from PG&E's 2003 ERRA

forecast, in exchange for ORA's agreement to support PG&E at the Procurement Review Group¹ in the event circumstances require PG&E to make such purchases during the summer of 2003. In addition, ORA agrees that the proposed trigger mechanism and the trigger amount are reasonable and should be adopted.

The second event was the Commission's adoption of D.03-07-030. Among other things, the Commission ordered that the finalization of the CTC element of the direct access cost responsibility surcharge for the 2001-2002 historic period and for 2003 be determined in a separate phase of R.02-01-011.

Today's scoping memo and ruling identifies the scope of issues to be covered in this proceeding, and determines that no evidentiary hearings are needed. A draft decision addressing all of the issues in this proceeding will be prepared for the Commission's consideration.

In addition, today's ruling grants the May 14, 2003 motion of ORA to file under seal its PHC statement, and the August 15, 2003 motion of PG&E and ORA to file under seal the unredacted stipulation.

Background

PG&E's ERRA application was filed in response to the Commission's directives in D.02-10-062 and D.02-12-074. A redacted version of PG&E's testimony in support of the ERRA application was served on the service list in R.01-10-024.²

¹ The Procurement Review Group was established in Decision (D.) 02-08-071.

² In an April 16, 2003 ruling of the administrative law judge (ALJ), PG&E's motion to file its unredacted testimony in support of its application was granted on the terms set forth in the ruling. The ruling also granted PG&E's motion for a protective order regarding the confidentiality of PG&E's ERRA information.

ORA filed a protest to PG&E's ERRA application on March 6, 2003. The protest "questions PG&E's proposed procurement level and the accuracy of PG&E's proposed trigger level." ORA also states that "it is important to establish an accurate revenue requirement for the forecast period," and that it plans "to critically evaluate PG&E's assumptions, and may present an alternate forecast based on different assumptions." (Protest, pp. 1, 4.) No other protests to PG&E's application were received.

A PHC was held on May 19, 2003. PHC statements were filed by PG&E and ORA on May 14, 2003. ORA filed a redacted version of its PHC statement, and a motion to file under seal an unredacted version of its PHC statement. ORA's PHC statement indicated that it did not plan to review the details of PG&E's forecast, nor would it take issue with PG&E's suggested trigger amount. However, ORA recommended that PG&E file an updated forecast reflecting the changes in gas price forecasts and hydro conditions, and to make changes to the scheduling of the ERRA proceedings. ORA also disagreed with PG&E over an issue related to PG&E's hedging amounts.

At the PHC, PG&E and ORA informed the ALJ that an updated forecast would no longer be necessary. The Utility Reform Network (TURN) indicated that the calculation of the competition transition charge (CTC) was unresolved and it was uncertain where this issue would be addressed. The ALJ stated that he would look into the CTC issue to see where it would be handled.

The CTC issue was subsequently addressed by the Commission in D.03-07-030 in Ordering Paragraphs 17 and 18.

On July 24, 2003, PG&E and ORA filed a “notice of settlement conference,” and offered interested parties the opportunity to discuss the “proposed settlement.”³ The settlement conference was held on August 1, 2003. Following the settlement conference, PG&E and ORA signed the stipulation on August 15, 2003. That same day, PG&E and ORA filed a motion pursuant to Rule 51.1 of the Commission’s Rules of Practice and Procedure to have the Commission adopt the stipulation, and a motion to file under seal the unredacted stipulation.⁴ No one filed any comments on the stipulation.

Motions

In advance of the PHC, ORA filed a motion on May 14, 2003 to file under seal an unredacted version of its PHC statement.⁵ The unredacted version of ORA’s PHC statement was attached to the motion. No one filed any response to ORA’s motion. Due to the confidential or proprietary nature of the information referred to in ORA’s unredacted PHC statement, and consistent with the April 16, 2003 protective order, ORA’s motion to file its unredacted version of its PHC statement under seal is granted.

On August 15, 2003, PG&E and ORA filed the motion to file the unredacted stipulation under seal. No one filed any response to this motion.

³ Although the notice referred to a “settlement conference” and “proposed settlement,” PG&E and ORA entered into a “stipulation.”

⁴ A redacted version of the stipulation was attached to the motion to adopt the stipulation, and the unredacted stipulation was attached to the motion to file under seal.

⁵ A redacted version of ORA’s PHC statement was served on those parties who had not signed a non-disclosure certificate, the form of which was attached to the April 16, 2003 ALJ ruling.

The only difference between the unredacted and redacted versions of the stipulation is that the unredacted stipulation identifies an amount in megawatts for the confidential hedging amounts. Due to the confidential or proprietary nature of the information referred to in the unredacted stipulation, and consistent with the April 16, 2003 protective order, the motion of PG&E and ORA to file its unredacted version of the stipulation under seal is granted.

The Docket Office will file under seal ORA's unredacted PHC statement, and the unredacted stipulation.

Scope of Issues

The scope of issues raised in this proceeding was developed from PG&E's application, ORA's protest to the application, the PHC statements of PG&E and ORA, the statements made at the PHC, D.03-07-030, the motion to adopt the stipulation, and the stipulation.

The list of issues is as follows:

1. Should PG&E's estimate of \$1.413 billion for its 2003 ERRA revenue requirement, less the adjustment for the removal of the confidential hedging amounts as provided for in the stipulation, be adopted?
2. Should the trigger mechanism proposed by PG&E, which was agreed to by ORA in the stipulation, be adopted?
3. Should the ERRA trigger amount of \$223.5 million, which was agreed to by ORA in the stipulation, be adopted?
4. Should the other stipulations agreed to by PG&E and ORA be adopted?
5. Should the motion of PG&E and ORA to adopt the stipulation be granted?

The only issue that parties mentioned might require a hearing was the CTC issue that TURN had raised. However, the Commission addressed the CTC issue in D.03-07-030. For the historical period of 2001 and 2002, and for 2003

prospectively, the finalization of the CTC element of the direct access cost responsibility surcharge is to be determined in a separate phase of R.02-01-011. The finalization of the CTC element for 2004 and thereafter will be addressed in the ERRA proceedings. (D.03-07-030, p. 106, Ordering Pars. 17 and 18.)

No other parties have requested hearings on any other issues.

The stipulation, if approved, would resolve PG&E's 2003 ERRA revenue requirement estimate, the trigger mechanism, and the trigger amount. Since no one filed comments contesting the stipulation, no hearings on the stipulation are required.

Accordingly, no evidentiary hearings are needed in this proceeding. Since no hearings are needed, the issues in this proceeding can be addressed directly in a draft decision, as shown in the schedule below.

This proceeding was preliminarily categorized as ratesetting in Resolution ALJ 176-3107, issued on February 13, 2003. Today's ruling confirms that categorization, and determines that no hearings are needed. Anyone who disagrees with this categorization must file an appeal of the categorization no later than 10 days after the date of this ruling. (See Rule 6.4.)

Since this ruling determines that no hearings are needed, ex parte communications shall be permitted as provided for in Rule 6.6 and Rule 7(e).

Schedule

The schedule for this proceeding shall be as follows:

Draft decision issued.	October 14, 2003
Request for oral argument.	Within five days of the mailing of the draft decision.
Comments and reply comments on draft decision.	In accordance with Rule 77.7.
Possible oral argument.	To be determined.
Decision adopted by the	November 13, 2003

Commission.	
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It is expected that this proceeding will be completed within 18 months of the filing of PG&E's application.

IT IS RULED that:

1. The May 14, 2003 motion of the Office of Ratepayer Advocates (ORA) to file under seal its unredacted prehearing conference statement is granted.
 - a. The Commission's Docket Office will file under seal the unredacted prehearing conference statement that was attached to ORA's motion.
2. The August 15, 2003 motion of Pacific Gas and Electric Company (PG&E) and ORA to file under seal the unredacted stipulation is granted.
 - a. The Commission's Docket Office will file under seal the unredacted stipulation that was attached to the motion of PG&E and ORA.
3. The issues to be determined in this proceeding are listed in the body of this scoping memo and ruling.
4. No evidentiary hearings are needed to resolve the issues in this proceeding.
5. The schedule for this proceeding is as listed above.

Dated September 19, 2003, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

/s/ JOHN S. WONG

John S. Wong
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated September 19, 2003, at San Francisco, California.

/s/ TERESITA C. GALLARDO
Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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